IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 5TH DECEMBER 2007 / 14TH AGRAHAYANA 1929

WP(C).No. 22013 of 2007(U)

PETITIONER:

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1. MRS. ANNIE VARGHESE,
   W/O. LATE THOMAS VARGHESE, PEARLMOOR, THIRUVALLA.

2. DR. JACOB PETER VARGHESE,
   S/O. THOMAS VARGHESE, PEARLMOOR, THIRUVALLA,
   REPRESENTED BY POWER OF ATTORNEY HOLDER,
   MRS.ANNIE VARGHESE.

BY ADV. SRI.JOSEPH KODIANTHARA
SRI.MATHEWS K.UTHUPPACHAN

RESPONDENTS:

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1. STATE OF KERALA,
   REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
   SECRETARIAT, TRIVANDRUM.

2. THE SECRETARY,
   REVENUE BOARD, SECRETARIAT, TRIVANDRUM.

3. THE DISTRICT COLLECTOR, PATHANAMTHITTA.

4. THE SPECIAL TAHSILDAR (LA),
   PATHANAMTHITTA.

5. GENERAL MANAGER,
   DISTRICT INDUSTRIES CENTRE, PATHANAMTHITTA.

6. VINOD P.PILLAI,
   SOBHANALAYAM, VETTOOR P.O., KUMBAZHA,
   PATHANAMTHITTA.

R6- BY ADV. SRI.SAJEEV KUMAR K.GOPAL
SRI.BINOY VASUDEVAN
ADDL.ADVOCATE GENERAL
R1-R5 – BY SENIOR GOVERNMENT PLEADER SRI.BENNY VARGHESE

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 05/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE OP.NO.6143/1998 FILED BY THE PETITIONERS BEFORE THIS HON'BLE COURT ON 24.3.1998.

EXT.P2 TRUE COPY OF THE ORDER DATED 27.3.1998 IN CMP.NO.10896/1998 IN OP.NO.6143/1998 PASSED BY THIS HON'BLE COURT.

EXT.P3 TRUE COPY OF THE JUDGMENT DATED 12.6.2003 IN OP.NO.6143/1998 PASSED BY THIS HON'BLE COURT.

EXT.P4 TRUE COPY OF THE JUDGMENT DATED 20.6.2005 IN WA NO.1219/2003 PASSED BY THE 4TH RESPONDENT.

EXT.P5(a) TRUE COPY OF THE AWARD NO.7/98-99 DATED 29.3.2006 PASSED BY THE 4TH RESPONDENT.

EXT.P5(b) TRUE COPY OF THE AWARD NO.24/98-99 & 25/98-99 DATED 29.4.2006 PASSED BY THE 4TH RESPONDENT.

EXT.P5(c) TRUE COPY OF THE COMMON NOTES TO THE ABOVE AWARDS ISSUED BY THE SPECIAL TAHSILDAR (L.A.)

EXT.P6 TRUE COPY OF THE NOTICE OF AWARD DATED 1.3.2006 ISSUED BY THE 4TH RESPONDENT IN AWARD NO.7/98-99.

EXT.P7 TRUE COPY OF THE COMMON NOTICE OF AWARD DATED 28.2.2006 ISSUED BY THE 4TH RESPONDENT IN AWARD NO.24/98-99 AND 25/98-99 DATED 14.2.2006.

EXT.P8 TRUE COPY OF THE NOTICE DATED NIL RECEIVED BY THE 1ST PETITIONER IN FORM 12.

EXT.P9 TRUE COPY OF THE NOTICE DATED 1.3.2006 RECEIVED BY THE 2ND PETITIONER IN FORM 12.

EXT.P10 TRUE COPY OF THE NEWS APPEARED IN THE DESABHIMANI DAILY DATED 28.6.2007.

EXT.P11 TRUE COPY OF THE NOTICE DATED 3.7.2007 ISSUED BY THE PETITIONERS TO RESPONDENTS 3 TO 5.

EXT.P12 TRUE COPY OF THE NEWS APPEARED IN THE MANGALAM DAILY DATED 7.7.2007.

EXT.P12(a) TRUE COPY OF THE NEWS REPORT APPEARED IN MANGALAM DAILY DATED 7.7.2007

//TRUE COPY//

P.A. To Judge.

K.PADMANABHAN NAIR, J.

W.P.(C) No.22013 of 2007

Dated this the 5th December, 2007.

J U D G M E N T

I do not think it is necessary to consider the rival contentions raised by both sides in this matter, in view of the decision of the learned Single Judge, reported in **Annie Varghese & another v. State of Kerala & others** (2007 (3) KLT 431). Hence, no further orders are necessary in this writ petition, so far as the petitioners are concerned.

2. According to respondents 1 to 5, subsequently an auction was conducted. So, that auction has to be set aside. Since the auction is to be set aside, it is only just and proper that the 5th respondent, District Industries Officer, Pathanamthitta, is directed to refund an amount of Rs.1,60,000/=, deposited by the 6th respondent, auction purchaser, on 9.7.2007, back to him, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment. It is made clear that in case there is any failure to refund the amount, within the time granted by this Court, 6th respondent is entitled to recover that amount with 12%

interest from 5th respondent, by executing this judgment itself, as if it is a decree passed by competent civil court. The 6th respondent may also produce a copy of this judgment before the 5th respondent.

In the result, the writ petition is disposed of in the following manner. The auction of the property by the 5th respondent is cancelled. There will be a direction to the 5th respondent, General Manager, District Industries Centre, refund the amount deposited by the 6th respondent, auction purchaser, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. In case, there is any failure to refund the amount within the time granted, it is open to the 6th respondent to recover the same with 12% interest from the date of deposit till the date of recovery, by executing the order, as if it is a decree passed by the competent civil court.

K.PADMANABHAN NAIR,
JUDGE

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